

TITLE 78 RECODIFICATION - TITLE 78A**CHAPTER 6**

2008 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

Title 78A, Chapter 6, Justice Court

Highlighted Provisions:

This bill:

►

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**RENUMBERS AND AMENDS:**

78A-6-101, (Renumbered from 78-5-101, as last amended by Laws of Utah 1999,
Chapter 21)

78A-6-102, (Renumbered from 78-5-101.5, as last amended by Laws of Utah 1999,
Chapter 166)

78A-6-103, (Renumbered from 78-5-139, as last amended by Laws of Utah 1998,
Chapter 313)

78A-6-104, (Renumbered from 78-5-106, as enacted by Laws of Utah 1989, Chapter
157)

78A-6-105, (Renumbered from 78-5-103, as last amended by Laws of Utah 1999,
Chapter 21)

78A-6-106, (Renumbered from 78-5-104, as last amended by Laws of Utah 1997,
Chapter 215)

78A-6-107, (Renumbered from 78-5-105, as last amended by Laws of Utah 1997,
Chapter 365)

- 32 **78A-6-108**, (Renumbered from 78-5-135.5, as renumbered and amended by Laws of
33 Utah 2001, Chapter 46)
- 34 **78A-6-109**, (Renumbered from 78-5-113, as enacted by Laws of Utah 1989, Chapter
35 157)
- 36 **78A-6-110**, (Renumbered from 78-5-121, as enacted by Laws of Utah 1989, Chapter
37 157)
- 38 **78A-6-111**, (Renumbered from 78-5-122, as enacted by Laws of Utah 1989, Chapter
39 157)
- 40 **78A-6-112**, (Renumbered from 78-5-123, as enacted by Laws of Utah 1989, Chapter
41 157)
- 42 **78A-6-113**, (Renumbered from 78-5-124, as enacted by Laws of Utah 1989, Chapter
43 157)
- 44 **78A-6-114**, (Renumbered from 78-5-117, as enacted by Laws of Utah 1989, Chapter
45 157)
- 46 **78A-6-115**, (Renumbered from 78-5-125, as enacted by Laws of Utah 1989, Chapter
47 157)
- 48 **78A-6-116**, (Renumbered from 78-5-118, as enacted by Laws of Utah 1989, Chapter
49 157)
- 50 **78A-6-117**, (Renumbered from 78-5-119, as last amended by Laws of Utah 2001,
51 Chapter 370)
- 52 **78A-6-118**, (Renumbered from 78-5-120, as last amended by Laws of Utah 2001, First
53 Special Session, Chapter 4)
- 54 **78A-6-119**, (Renumbered from 78-5-126, as enacted by Laws of Utah 1989, Chapter
55 157)
- 56 **78A-6-120**, (Renumbered from 78-5-116, as last amended by Laws of Utah 2004,
57 Chapters 273, and 349)
- 58 **78A-6-121**, (Renumbered from 78-5-135, as last amended by Laws of Utah 2001,
59 Chapter 308)
- 60 **78A-6-122**, (Renumbered from 78-5-116.5, as enacted by Laws of Utah 2004, Chapter
61 301)
- 62 **78A-6-123**, (Renumbered from 78-5-140, as enacted by Laws of Utah 1998, Chapter

63 313)
64 **78A-6-201**, (Renumbered from 78-5-137, as last amended by Laws of Utah 1996,
65 Chapter 84)
66 **78A-6-202**, (Renumbered from 78-5-134, as last amended by Laws of Utah 2006,
67 Chapter 16)
68 **78A-6-203**, (Renumbered from 78-5-132, as last amended by Laws of Utah 1993,
69 Chapter 1)
70 **78A-6-204**, (Renumbered from 78-5-102, as last amended by Laws of Utah 1999,
71 Chapter 21)
72 **78A-6-205**, (Renumbered from 78-5-127, as last amended by Laws of Utah 1997,
73 Chapter 215)
74 **78A-6-206**, (Renumbered from 78-5-128, as last amended by Laws of Utah 2001,
75 Chapter 71)
76 **78A-6-207**, (Renumbered from 78-5-129, as enacted by Laws of Utah 1989, Chapter
77 157)
78 **78A-6-208**, (Renumbered from 78-5-138, as last amended by Laws of Utah 1999,
79 Chapter 166)
80 **78A-6-209**, (Renumbered from 78-5-111, as last amended by Laws of Utah 1998,
81 Chapter 282)
82 **78A-6-210**, (Renumbered from 78-5-106.5, as enacted by Laws of Utah 2003, Chapter
83 51)
84 **78A-6-211**, (Renumbered from 78-5-110, as last amended by Laws of Utah 2003,
85 Chapter 51)
86 **78A-6-212**, (Renumbered from 78-5-107, as last amended by Laws of Utah 1993,
87 Chapters 5, and 227)
88 **78A-6-213**, (Renumbered from 78-5-108, as last amended by Laws of Utah 2004,
89 Chapter 245)
90 **78A-6-214**, (Renumbered from 78-5-109, as enacted by Laws of Utah 1989, Chapter
91 157)
92 **78A-6-215**, (Renumbered from 78-5-130, as enacted by Laws of Utah 1989, Chapter

93 157)

94 **78A-6-301**, (Renumbered from 78-5-116.7, as enacted by Laws of Utah 2004, Chapter
95 301)

96

97 *Be it enacted by the Legislature of the state of Utah:*

98 Section 1. Section **78A-6-101**, which is renumbered from Section 78-5-101 is
99 renumbered and amended to read:

100 ~~[78-5-101].~~ **78A-6-101. Creation of justice court -- Not of record.**

101 Under Article VIII, Section 1, Utah Constitution, there is created a court not of record
102 known as the justice court. The judges of this court are justice court judges.

103 Section 2. Section **78A-6-102**, which is renumbered from Section 78-5-101.5 is
104 renumbered and amended to read:

105 ~~[78-5-101.5].~~ **78A-6-102. Creation of justice courts -- Classes of justice**
106 **courts.**

107 (1) (a) For the purposes of this section, to "create a justice court" means to:

108 (i) establish a justice court; or

109 (ii) establish a justice court under Title 11, Chapter 13, Interlocal Cooperation Act.

110 (b) A municipality or county that has created a justice court may change the form of its
111 court to another listed in Subsection (1)(a) without being considered to have created a court.

112 (2) Justice courts shall be divided into the following classes:

113 (a) Class I: 501 or more citations or cases filed per month;

114 (b) Class II: 201-500 citations or cases filed per month;

115 (c) Class III: 61-200 citations or cases filed per month; and

116 (d) Class IV: 60 or fewer citations or cases filed per month.

117 (3) Municipalities or counties can elect to create a Class I or Class II justice court by
118 filing a written declaration with the Judicial Council on or before July 1 at least two years prior
119 to the effective date of the election. Upon demonstration of compliance with operating
120 standards as established by statute and the Judicial Council, the Judicial Council shall certify
121 the creation of the court pursuant to Section 78-5-139.

122 (4) (a) Except as provided in Subsection (5), municipalities or counties can elect to

create a Class III or Class IV justice court by establishing the need for the court and filing a written declaration with the Judicial Council on or before July 1 at least one year prior to the effective date of the election.

(b) In evaluating the need for the creation of a Class III or Class IV justice court, the Judicial Council shall consider factors of population, case filings, public convenience, availability of law enforcement agencies and court support services, proximity to other courts, and any special circumstances.

(c) The Judicial Council shall determine whether the municipality or county seeking to create a Class III or Class IV justice court has established the need for the court.

(d) Upon demonstration of compliance with operating standards as established by statute and the Judicial Council, the Judicial Council shall certify the creation of the court pursuant to Section 78-5-139.

(5) (a) The following municipalities may create a justice court by filing a written declaration with the Judicial Council: American Fork, Bountiful, Brigham City, Cedar City, Clearfield, Elk Ridge, Kaysville, Layton, Logan, Moab, Murray, Ogden, Orem, Park City, Price, Provo, Richfield, Roosevelt, Roy, Salem, Salt Lake City, Sandy, Spanish Fork, St. George, Taylorsville, Tooele, Vernal, and West Valley City.

(b) To form a Class I or Class II justice court, the municipalities listed in Subsection (5)(a) shall file a written declaration with the Judicial Council on or before July 1 at least two years prior to the effective date of the election.

(c) To form a Class III or Class IV justice court, the municipalities listed in Subsection (5)(a) shall file a written declaration with the Judicial Council on or before July 1 at least one year prior to the effective date of the election.

(d) Upon demonstration of compliance with operating standards as established by statute and the Judicial Council, the Judicial Council shall certify the creation of the court pursuant to Section 78-5-139.

(6) Upon request from a municipality or county seeking to create a justice court, the Judicial Council may shorten the time required between the city's or county's written declaration or election to create a justice court and the effective date of the election.

(7) The Judicial Council may by rule provide resources and procedures adequate for the timely disposition of all matters brought before the courts. The administrative office of the

courts and local governments shall cooperate in allocating resources to operate the courts in the most efficient and effective manner based on the allocation of responsibility between courts of record and not of record.

Section 3. Section **78A-6-103**, which is renumbered from Section 78-5-139 is renumbered and amended to read:

[78-5-139]. 78A-6-103. Requirements by Judicial Council for creating and certifying justice courts.

(1) The Judicial Council has the responsibility for promulgating and publishing minimum requirements both for the creation of new courts and the certification of existing courts. The council shall also review requests for waiver of the minimum requirements and may authorize the creation of a court by waiving compliance with minimum requirements or by allowing for an extension of time to meet the minimum requirements.

(2) Existing justice courts shall be recertified at the end of each four-year term if they continue to meet the minimum requirements for the establishment of a new court. Any existing court which does not meet the minimum requirements may request a review from the council, which may authorize the recertification of the court by waiving compliance with minimum requirements or by allowing for an extension of time to meet those requirements.

Section 4. Section **78A-6-104**, which is renumbered from Section 78-5-106 is renumbered and amended to read:

[78-5-106]. 78A-6-104. Justice court judge authority.

Justice court judges:

(1) have the same authority regarding matters within their jurisdiction as judges of courts of record;

(2) may issue search warrants and warrants of arrest upon a finding of probable cause; and

(3) may conduct proceedings to determine:

(a) probable cause for any case within their jurisdiction; and

(b) an accused person's release on bail or his own recognizance.

Section 5. Section **78A-6-105**, which is renumbered from Section 78-5-103 is renumbered and amended to read:

[78-5-103]. 78A-6-105. Territorial jurisdiction -- Voting.

(1) The territorial jurisdiction of county justice courts extends to the limits of the precinct for which the justice court is created and includes all cities or towns within the precinct, except cities where a municipal justice court exists.

(2) The territorial jurisdiction of municipal justice courts extends to the corporate limits of the municipality in which the justice court is created.

(3) The territorial jurisdiction of county and municipal justice courts functioning as magistrates extends beyond the boundaries in Subsections (1) and (2):

(a) as set forth in Section 78-7-17.5; and

(b) to the extent necessary to carry out magisterial functions under Subsection 77-7-23(2) regarding jailed persons.

(4) For election of county justice court judges, all registered voters in the county justice court precinct may vote at the judge's retention election.

Section 6. Section **78A-6-106**, which is renumbered from Section 78-5-104 is renumbered and amended to read:

~~[78-5-104].~~ 78A-6-106. Jurisdiction.

(1) Justice courts have jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within their territorial jurisdiction, except those offenses over which the juvenile court has exclusive jurisdiction.

(2) Justice courts have jurisdiction of small claims cases under Title 78, Chapter 6, Small Claims Courts, if the defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

Section 7. Section **78A-6-107**, which is renumbered from Section 78-5-105 is renumbered and amended to read:

~~[78-5-105].~~ 78A-6-107. Jurisdiction of justice court and juvenile court.

(1) Justice courts have jurisdiction over traffic misdemeanors and infractions committed by persons 16 or 17 years of age and that occur within the territorial jurisdiction of the court, except those offenses exclusive to the juvenile court under Section 78-3a-104.

(2) If the traffic offense involves the conviction of a person 16 years of age or older but younger than 18 years of age for an offense under Section 78-3a-506, the justice court judge shall notify the juvenile court of the conviction.

(3) The justice court has authority to take the juvenile's driver license and return it to

216 the Driver License Division, Department of Public Safety, for suspension under Section
217 53-3-221.

218 (4) Justice court judges may transfer matters within the court's jurisdiction under this
219 section to the juvenile court for postjudgment proceedings according to rules of the Judicial
220 Council.

221 Section 8. Section **78A-6-108**, which is renumbered from Section 78-5-135.5 is
222 renumbered and amended to read:

223 **~~[78-5-135.5].~~ 78A-6-108. Justice court judge to collect fees before filing**
224 **action -- Penalty.**

225 Every justice court judge who files in his office any complaint, or allows a civil action
226 to be commenced in his court, without the fees being paid in advance, except in cases permitted
227 by law, is guilty of a class B misdemeanor.

228 Section 9. Section **78A-6-109**, which is renumbered from Section 78-5-113 is
229 renumbered and amended to read:

230 **~~[78-5-113].~~ 78A-6-109. Process to any part of the state -- Service.**

231 (1) Process from a justice court may be issued to any place in the state.

232 (2) Subpoenas in any action or proceeding of a justice court may be issued to any place
233 in the state.

234 (3) All warrants issued by a justice court for violation of any state law or local
235 ordinance within a court's jurisdiction are directed to the sheriff, any constable of the county, or
236 to the marshal or city police of the town or city.

237 Section 10. Section **78A-6-110**, which is renumbered from Section 78-5-121 is
238 renumbered and amended to read:

239 **~~[78-5-121].~~ 78A-6-110. Docket to be kept -- Enumeration of entries required.**

240 Every justice court judge shall keep or cause to be kept a docket. The following
241 information shall be entered in the docket under the title of the action to which it relates:

242 (1) the title to every action or proceeding;

243 (2) the object of the action or proceeding, and the amount of any money claimed;

244 (3) the date of the service of the summons and the time of its return;

245 (4) a statement of the fact if an order to arrest the defendant is made or a writ of
246 attachment is issued;

(5) the time when the parties or any party appears, or a party's nonappearance, if default is made;

(6) minutes of the pleadings and motions in writing by referring to them, and if not in writing, by a concise statement of the material parts of the pleadings;

(7) every adjournment, stating on whose application and to what time;

(8) a demand for a trial by jury, when made, by whom, and the order for the jury;

(9) the time appointed for the return of the jury and for the trial;

(10) the names of the jurors who appear and are sworn;

(11) the names of all witnesses sworn and at whose request;

(12) the verdict of the jury and when received, or if the jury disagree and are discharged, the disagreement and discharge;

(13) the judgment of the court including the costs included and when entered;

(14) an itemized statement of the costs;

(15) the time of issuing an execution and to whom, and the time of any renewals;

(16) a statement of any money paid to the court, when, and by whom; and

(17) the receipt of any notice of appeal, and of any appeal bond filed.

Section 11. Section **78A-6-111**, which is renumbered from Section 78-5-122 is renumbered and amended to read:

~~[78-5-122].~~ 78A-6-111. Docket entries -- Prima facie evidence.

Entries in a justice court judge's docket under Section 78-5-121, certified by the judge or his successor in office, are prima facie evidence of the facts stated.

Section 12. Section **78A-6-112**, which is renumbered from Section 78-5-123 is renumbered and amended to read:

~~[78-5-123].~~ 78A-6-112. Docket index.

A judge shall keep or cause to be kept an alphabetical index to the names of the parties to each judgment in his docket with a reference to the page of entry. The names of the parties shall be entered in the index by the first letter of the family surname.

Section 13. Section **78A-6-113**, which is renumbered from Section 78-5-124 is renumbered and amended to read:

~~[78-5-124].~~ 78A-6-113. Delivery of docket and papers to successor.

A justice court judge upon the expiration of his term of office shall deposit with his

successor his dockets and all papers filed in his office and also those of his predecessors or any others in his custody. The dockets and papers shall be kept as public records.

Section 14. Section **78A-6-114**, which is renumbered from Section 78-5-117 is renumbered and amended to read:

~~[78-5-117].~~ 78A-6-114. Filing and docketing of abstract.

(1) The judge, on the demand of a party in whose favor judgment is rendered, shall provide the party with an abstract of the judgment in substantially the form approved by the Judicial Council.

(2) The abstract may be filed in the office of the clerk of the district court of any county in the state but shall be docketed in the judgment docket of that district court.

(3) The clerk shall note the time of receipt of the abstract on the abstract and on the docket.

Section 15. Section **78A-6-115**, which is renumbered from Section 78-5-125 is renumbered and amended to read:

~~[78-5-125].~~ 78A-6-115. All papers issued, except subpoenas, to be filled out without blanks.

Every paper made or issued by a justice court judge except a subpoena is valid only if issued without any blank space to be filled or completed by another person.

Section 16. Section **78A-6-116**, which is renumbered from Section 78-5-118 is renumbered and amended to read:

~~[78-5-118].~~ 78A-6-116. Execution on judgment.

From the time of the docketing in the office of the clerk of any district court execution may then be issued within the same time, in the same manner, and with the same effect as if issued on a judgment of the district court.

Section 17. Section **78A-6-117**, which is renumbered from Section 78-5-119 is renumbered and amended to read:

~~[78-5-119].~~ 78A-6-117. Judgment not a lien unless so recorded.

(1) Except as provided under Subsection (3), a judgment rendered in a justice court does not create a lien upon any real property of the judgment debtor unless the judgment or abstract of the judgment:

(a) is recorded in the office of the county recorder of the county in which the real

309 property of the judgment debtor is located; and

310 (b) contains the information identifying the judgment debtor as referred to in

311 Subsection 78-22-1.5(4) either:

312 (i) in the judgment or abstract of judgment; or

313 (ii) as a separate information statement of the judgment creditor as referred to in

314 Subsection 78-22-1.5(5).

315 (2) The lien runs for eight years from the date the judgment was entered in the district

316 court under Section 78-22-1 unless the judgment is earlier satisfied.

317 (3) State agencies are exempt from the recording requirement of Subsection (1).

318 Section 18. Section **78A-6-118**, which is renumbered from Section 78-5-120 is

319 renumbered and amended to read:

320 **[78-5-120]. 78A-6-118. Appeals from justice court -- Trial or hearing de novo in**
321 **district court.**

322 (1) In a criminal case, a defendant is entitled to a trial de novo in the district court only

323 if the defendant files a notice of appeal within 30 days of:

324 (a) sentencing after a bench or jury trial, or a plea of guilty in the justice court resulting
325 in a finding or verdict of guilt; or

326 (b) a plea of guilty in the justice court that is held in abeyance.

327 (2) If an appeal under Subsection (1) is of a plea entered pursuant to negotiation with
328 the prosecutor, and the defendant did not reserve the right to appeal as part of the plea
329 negotiation, the negotiation is voided by the appeal.

330 (3) A defendant convicted and sentenced in justice court is entitled to a hearing de
331 novo in the district court on the following matters, if he files a notice of appeal within 30 days
332 of:

333 (a) an order revoking probation;

334 (b) an order entering a judgment of guilt pursuant to the person's failure to fulfil the
335 terms of a plea in abeyance agreement;

336 (c) a sentence entered pursuant to Subsection (3)(b); or

337 (d) an order denying a motion to withdraw a plea.

338 (4) The prosecutor is entitled to a hearing de novo in the district court on:

339 (a) a final judgment of dismissal;

(b) an order arresting judgment;

(c) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;

(d) a judgment holding invalid any part of a statute or ordinance;

(e) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that evidence prevents continued prosecution; or

(f) an order granting a motion to withdraw a plea of guilty or no contest.

(5) Upon entering a decision in a hearing de novo, the district court shall remand the case to the justice court unless:

(a) the decision results in immediate dismissal of the case;

(b) with agreement of the parties, the district court consents to retain jurisdiction; or

(c) the defendant enters a plea of guilty in the district court.

(6) The district court shall retain jurisdiction over the case on trial de novo.

(7) The decision of the district court is final and may not be appealed unless the district court rules on the constitutionality of a statute or ordinance.

Section 19. Section **78A-6-119**, which is renumbered from Section 78-5-126 is renumbered and amended to read:

~~[78-5-126].~~ 78A-6-119. Disposition of moneys received.

Money received or collected on any process or order issued from a justice court shall be paid within seven days to the parties entitled or authorized to receive the money.

Section 20. Section **78A-6-120**, which is renumbered from Section 78-5-116 is renumbered and amended to read:

~~[78-5-116].~~ 78A-6-120. Disposition of fines.

(1) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the court and 1/2 to the treasurer of the local government which prosecutes or which would prosecute the violation.

(2) (a) For violation of Title 23, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the city or county government responsible for the justice court.

(b) For violation of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter

18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and 15% to the general fund of the city or county government responsible for the justice court.

(3) The surcharge established by Section 63-63a-1 shall be paid to the state treasurer.

(4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and distributed to the class B and C road account.

(5) Revenue deposited in the class B and C road account pursuant to Subsection (4) is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and C road funds.

(6) Until July 1, 2007, fines and forfeitures collected by the court for a violation of Subsection 41-1a-1303(2) related to registration of vehicles after establishing residency shall be remitted:

(a) 50% to the state or local governmental entity which issued the citation for a violation to be used for law enforcement purposes; and

(b) 50% in accordance with Subsection (1).

Section 21. Section **78A-6-121**, which is renumbered from Section 78-5-135 is renumbered and amended to read:

~~[78-5-135]. 78A-6-121. Funds collected -- Deposits and reports -- Special account -- Accounting.~~

(1) (a) Municipal justice courts shall deposit public funds in accordance with Section 51-4-2.

(b) The treasurer shall report to the city recorder the sums collected and deposited. The recorder shall then apportion and remit the collected proceeds as provided in Section 78-5-116.

(c) The municipality shall retain all small claims filing fees including the governmental filing fee for actions filed by the municipality as provided in Section 78-6-14.

(2) (a) County justice courts shall deposit public funds in accordance with Section 51-4-2.

(b) The treasurer shall report to the county auditor the sums collected and deposited. The auditor shall then apportion and remit the collected proceeds as provided in Section 78-5-116.

(c) The county shall retain all small claims filing fees including the governmental filing fee for actions filed by the county as provided in Section 78-6-14.

(3) Money received or collected on any civil process or order issued from a justice court shall be paid within seven days to the party entitled or authorized to receive it.

(4) (a) With the approval of the governing body a trust or revolving account may be established in the name of the justice court and the treasurer for the deposit of money collected including bail, restitution, unidentified receipts, and other money that requires special accounting.

(b) Disbursements from this account do not require the approval of the auditor, recorder, or governing body.

(c) The account shall be reconciled at least quarterly by the auditor of the governing body.

Section 22. Section **78A-6-122**, which is renumbered from Section 78-5-116.5 is renumbered and amended to read:

~~[78-5-116.5].~~ 78A-6-122. Security surcharge -- Application -- Deposit in restricted accounts.

(1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of \$32 shall be assessed on all convictions for offenses listed in the uniform bail schedule adopted by the Judicial Council and moving traffic violations.

(2) The security surcharge shall be collected and distributed pro rata with any fine collected. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.

(3) The security surcharge shall be allocated as follows:

(a) the assessing court shall retain 20% of the amount collected for deposit into the general fund of the governmental entity; and

(b) 80% shall be remitted to the state treasurer to be distributed as follows:

(i) 62.5% to the treasurer of the county in which the justice court which remitted the amount is located;

(ii) 25% to the Court Security Account created in Section 63-63c-102; and

(iii) 12.5% to the Justice Court Technology, Security, and Training Account created in Section 78-5-116.7.

(4) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Section 23. Section **78A-6-123**, which is renumbered from Section 78-5-140 is renumbered and amended to read:

~~[78-5-140]~~. 78A-6-123. Dissolution of justice courts.

(1) (a) The county or municipality shall obtain legislative approval to dissolve a justice court if the caseload from that court would fall to the district court upon dissolution.

(b) To obtain approval of the Legislature, the governing authority of the municipality or county shall petition the Legislature to adopt a joint resolution to approve the dissolution.

(c) The municipality or county shall provide notice to the Judicial Council.

(d) Notice of intent to dissolve a Class I or Class II justice court to the Judicial Council shall be given not later than July 1 two years prior to the general session in which the county or municipality intends to seek legislative approval.

(e) Notice of intent to dissolve a Class III or Class IV justice court to the Judicial Council shall be given not later than July 1 immediately prior to the general session in which the county or municipality intends to seek legislative approval.

(2) (a) A county or municipality shall give notice of intent to dissolve a justice court to the Judicial Council if the caseload of that court would fall to the county justice court. A municipality shall also give notice to the county of its intent to dissolve a justice court.

(b) Notice of intent to dissolve a Class I or Class II court shall be given by July 1 at least two years prior to the effective date of the dissolution.

(c) Notice of intent to dissolve a Class III or Class IV court shall be given by July 1 at least one year prior to the effective date of the dissolution.

(3) Upon request from a municipality or county seeking to dissolve a justice court, the Judicial Council may shorten the time required between the city's or county's notice of intent to dissolve a justice court and the effective date of the dissolution.

Section 24. Section **78A-6-201**, which is renumbered from Section 78-5-137 is renumbered and amended to read:

~~[78-5-137]~~. 78A-6-201. Justice court judge eligibility -- Mandatory retirement -- Service after retirement.

(1) A county justice court judge shall be:

- 464 (a) a citizen of the United States;
465 (b) 25 years of age or older;
466 (c) a resident of Utah for at least three years immediately preceding his appointment;
467 (d) a resident of the precinct for which chosen for at least six months immediately
468 preceding appointment; and
469 (e) a qualified voter of the precinct for which chosen.
- 470 (2) A municipal justice court judge shall be:
471 (a) a citizen of the United States;
472 (b) 25 years of age or older;
473 (c) a resident of Utah for at least three years immediately preceding appointment;
474 (d) a resident of the county in which the municipality is located or an adjacent county
475 for at least six months immediately preceding appointment; and
476 (e) a qualified voter of the county of residence.
- 477 (3) Justice court judges are not required to be admitted to practice law in the state as a
478 qualification to hold office but shall have at the minimum a diploma of graduation from high
479 school or its equivalent. This requirement does not apply to justice court judges holding office
480 on July 1, 1989, who successfully complete continuing education requirements under Section
481 78-5-127.
- 482 (4) A justice court judge shall be a person who has demonstrated maturity of judgment,
483 integrity, and the ability to understand and apply appropriate law with impartiality.
- 484 (5) (a) Except as provided in Subsections (b) and (c), a county or municipal justice
485 court judge shall retire upon attaining the age of 75 years.
- 486 (b) A county justice court judge serving on July 1, 1996, who is 75 years of age or
487 older on July 1, 1996, or who attains 75 years of age on or before the first Monday in February
488 1999, may not be a candidate in the 1998 judicial retention elections and shall retire on or
489 before the first Monday in February 1999.
- 490 (c) A municipal justice court judge serving on July 1, 1996, who is 75 years of age or
491 older on July 1, 1996, or who attains 75 years of age on or before the first Monday in February
492 2000, may not be reappointed and shall retire on or before the first Monday in February 2000.
- 493 (6) (a) A justice court judge whose tenure in office has terminated due to retirement
494 and who is physically and mentally able to perform the duties of the office may hear a case as

prescribed by rule of the Supreme Court.

(b) The retired justice court judge shall take and subscribe an oath of office only upon the first appointment. The retired justice court judge shall receive reasonable compensation for services as set by local ordinance of the municipality or county.

Section 25. Section **78A-6-202**, which is renumbered from Section 78-5-134 is renumbered and amended to read:

~~[78-5-134]. 78A-6-202. Justice court judges to be appointed -- Procedure -- Report to Judicial Council -- Retention election -- Vacancy.~~

(1) As used in this section:

(a) "Appointing authority" means:

(i) the chair of the county commission in counties having the county commission form of county government;

(ii) the county executive in counties having the county executive-council form of government;

(iii) the chair of the city council or town council in municipalities having the traditional management arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

(iv) the city manager, in the council-manager optional form of government defined in Section 10-3-101; and

(v) the mayor, in the council-mayor optional form of government defined in Section 10-3-101.

(b) "Local legislative body" means:

(i) the county commission or county council; and

(ii) the city council or town council.

(2) Justice court judges shall be appointed by the appointing authority and confirmed by a majority vote of the local legislative body.

(3) (a) After a newly appointed justice court judge has been confirmed, the local legislative body shall report the confirmed judge's name to the Judicial Council.

(b) The Judicial Council shall certify the judge as qualified to hold office upon successful completion of the orientation program and upon the written opinion of the county or municipal attorney that the judge meets the statutory qualifications for office.

(c) A justice court judge may not perform judicial duties until certified by the Judicial

526 Council.

527 (4) Upon the expiration of a county justice court judge's term of office the judge shall
528 be subject to an unopposed retention election in accordance with the procedures set forth in
529 Section 20A-12-201.

530 (5) Upon the expiration of a municipal justice court judge's term of office a municipal
531 justice court judge shall be reappointed absent a showing of good cause by the appointing
532 authority.

533 (a) If an appointing authority asserts good cause to not reappoint a municipal justice
534 court judge, at the request of the judge, the good cause shall be presented at a formal hearing of
535 the local legislative body.

536 (b) The local legislative body shall determine by majority vote whether good cause
537 exists not to reappoint the municipal justice court judge.

538 (c) The decision of the local legislative body is not subject to appeal.

539 (d) In determining whether good cause exists to not reappoint a municipal justice court
540 judge, the appointing authority and local legislative body shall consider:

541 (i) whether or not the judge has been certified as meeting the evaluation criteria for
542 judicial performance established by the Judicial Council; and

543 (ii) any other factors considered relevant by the appointing authority.

544 (6) Before reappointment or retention election, each justice court judge shall be
545 evaluated in accordance with the performance evaluation program established in Subsection
546 78-3-21(4).

547 (7) (a) At the conclusion of a term of office or when a vacancy occurs in the position of
548 justice court judge, the appointing authority may contract with a justice court judge in the
549 county or an adjacent county to serve as justice court judge.

550 (b) The contract shall be for the duration of the justice court judge's term of office.

551 (8) Vacancies in the office of justice court judge shall be filled as provided in Section
552 20A-1-506.

553 Section 26. Section **78A-6-203**, which is renumbered from Section 78-5-132 is
554 renumbered and amended to read:

555 **[78-5-132]. 78A-6-203. Term of office for county court.**

556 (1) (a) The term of a county justice court judge is four years beginning the first

557 Monday in February 1991.

558 (b) Judges holding office when this act takes effect or appointed to fill any vacancy
559 hold office until reappointed or a successor is appointed and certified by the Judicial Council.

560 (2) (a) The term of office of a municipal justice court judge is four years, beginning the
561 first Monday in February 1992.

562 (b) Judges holding office when this section takes effect or appointed to fill any vacancy
563 hold office until reappointed or a successor is appointed and certified by the Judicial Council.

564 Section 27. Section **78A-6-204**, which is renumbered from Section 78-5-102 is
565 renumbered and amended to read:

566 **[78-5-102]. 78A-6-204. Offices of justice court judges.**

567 (1) Justice court judges holding office in:

568 (a) county precincts are county justice court judges; and

569 (b) cities or towns are municipal justice court judges.

570 (2) With the concurrence of the governing bodies of both the county and municipality,
571 a justice court judge may hold both the offices of county and municipal justice court judge.

572 (3) The county legislative body may establish a single precinct or divide the county
573 into multiple precincts to create county justice courts for public convenience.

574 (4) (a) The governing body may assign as many justice court judges to a court as
575 required for efficient judicial administration.

576 (b) If more than one judge is assigned to a court, any citations, informations, or
577 complaints within that court shall be assigned to the judges at random.

578 (5) A municipality or county may contract with any other municipality or
579 municipalities within the county under Title 11, Chapter 13, Interlocal Cooperation Act, to
580 establish a justice court. A justice court established under Title 11, Chapter 13, shall meet the
581 requirements for certification under Section 78-5-139. A justice court established under Title
582 11, Chapter 13, shall have territorial jurisdiction as if established separately.

583 Section 28. Section **78A-6-205**, which is renumbered from Section 78-5-127 is
584 renumbered and amended to read:

585 **[78-5-127]. 78A-6-205. Required annual training -- Expenses -- Failure to**
586 **attend.**

587 (1) Prior to assuming office all justice court judges shall attend an orientation seminar

conducted under the direction of the Judicial Council.

(2) All justice court judges shall attend the continuing education conducted under the supervision of the Judicial Council each calendar year.

(a) Successful completion of the continuing education requirement includes instruction regarding competency and understanding of constitutional provisions and laws relating to the jurisdiction of the court, rules of evidence, and rules of civil and criminal procedure as indicated by a certificate awarded by the Judicial Council.

(b) The county or municipality creating and maintaining a justice court shall assume the expenses of travel, meals, and lodging for the judge to attend education and training seminars conducted by the Judicial Council.

(3) Any judge not obtaining a certificate for two consecutive years may be removed from office for cause under this section.

(4) The Judicial Council shall inform the Judicial Conduct Commission of the names of justice court judges failing to comply with this section.

Section 29. Section **78A-6-206**, which is renumbered from Section 78-5-128 is renumbered and amended to read:

[78-5-128]. 78A-6-206. Determination of compensation and limits -- Salary survey -- Limits on secondary employment.

(1) (a) Every justice court judge shall be paid a fixed compensation determined by the governing body of the respective municipality or county taking into consideration recommendations of the office of the state court administrator as provided in Subsection (2).

(i) A justice court judge employed by one entity may not receive a salary greater than 85% of the salary of a district court judge.

(ii) A justice court judge employed by more than one entity as a justice court judge, may not receive a total salary for service as a justice court judge greater than the salary of a district court judge.

(b) The compensation shall be comprised of a monthly salary and shall be computed upon the number of hours, days, or other periods of time that the justice court judge is to be available to perform all judicial functions.

(2) (a) The state court administrator with the approval of the Judicial Council shall survey areas of the state relating to the functions and activities of the justice courts, taking into

consideration the diverse economic factors of the various localities of the justice courts, and develop recommended monthly salaries. These recommendations shall be furnished to the governing bodies of the municipalities and the counties to assist them in determining salaries.

(b) The state court administrator may make studies concerned with the economic as well as administrative feasibility to encourage the various political subdivisions to utilize the same person or persons to act as justice court judges for their several jurisdictions and to assist political subdivisions desiring to enter into agreements for that purpose.

(3) A justice court judge may not appear as an attorney in any criminal matter in a federal, state, or justice court or appear as an attorney in any justice court or in any juvenile court case involving conduct which would be criminal if committed by an adult.

(4) A justice court judge may not hold any office or employment including contracting for services in any justice agency of state government or any political subdivision of the state including law enforcement, prosecution, criminal defense, corrections, or court employment.

(5) A justice court judge may not hold any office in any political party or organization engaged in any political activity or serve as an elected official in state government or any political subdivision of the state.

(6) A justice court judge may not own or be employed by any business entity which regularly litigates in small claims court.

(7) Any judge who violates this section is subject to removal by the Judicial Conduct Commission under Title 78, Chapter 8, Judicial Conduct Commission and Supreme Court Oversight of Judges.

Section 30. Section **78A-6-207**, which is renumbered from Section 78-5-129 is renumbered and amended to read:

[78-5-129]. 78A-6-207. Compensation -- Annual review and adjustment.

(1) The governing body of each municipality or county shall annually review and may adjust the compensation paid.

(2) The salary fixed for a justice court judge may not be diminished during the term for which the judge has been appointed or elected.

(3) A copy of the resolution, ordinance, or other document fixing the salary of the justice court judge and any adjustments to the document shall be furnished to the state court administrator by the governing body of the municipality or county.

Section 31. Section **78A-6-208**, which is renumbered from Section 78-5-138 is renumbered and amended to read:

[78-5-138]. 78A-6-208. Temporary justice court judge.

If a justice court judge is absent or disqualified, the appointing authority may appoint another justice court judge currently holding office within the judicial district to serve as a temporary justice court judge. A retired justice court judge may also be appointed as a temporary justice court judge under rule of the Supreme Court.

Section 32. Section **78A-6-209**, which is renumbered from Section 78-5-111 is renumbered and amended to read:

[78-5-111]. 78A-6-209. Justice court staff to be provided.

(1) Each county, city, or town creating and maintaining a justice court shall provide:

(a) sufficient staff public prosecutors to attend the court and perform the duties of prosecution before the justice court;

(b) adequate funding for the costs of defense for persons charged with a public offense who are determined by the court to be indigent under Title 77, Chapter 32; and

(c) sufficient local peace officers to attend the justice court when required and provide security for the court.

(2) The county attorney or district attorney may appoint city prosecutors as deputies to prosecute state offenses in municipal justice courts.

Section 33. Section **78A-6-210**, which is renumbered from Section 78-5-106.5 is renumbered and amended to read:

[78-5-106.5]. 78A-6-210. Justice court judge administrative responsibilities.

(1) Justice court judges shall comply with and ensure that court personnel comply with applicable county or municipal rules and regulations related to personnel, budgets, and other administrative functions.

(2) Failure by the judge to comply with applicable administrative county or municipal rules and regulations may be referred, by the county executive or municipal legislative body, to the state Justice Court Administrator.

(3) Compliance with appropriate administrative requirements shall be considered as part of the Judicial Council's judicial performance evaluation program for justice court judges.

(4) Repeated or willful noncompliance may be referred, by the county executive or municipal legislative body, to the Judicial Conduct Commission.

Section 34. Section **78A-6-211**, which is renumbered from Section 78-5-110 is renumbered and amended to read:

[78-5-110]. 78A-6-211. Compensation and expenses -- Clerical personnel.

(1) The county, city, or town creating or maintaining a justice court shall provide and compensate clerical personnel to conduct the business of the court.

(2) The selection, supervision, and discipline of court clerical personnel shall be in accordance with local government personnel policies.

(3) Clerical personnel are governed by Title 52, Chapter 3, regarding employment of relatives.

(4) The county, city, or town assumes the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council.

Section 35. Section **78A-6-212**, which is renumbered from Section 78-5-107 is renumbered and amended to read:

[78-5-107]. 78A-6-212. Place of holding court.

(1) (a) County justice court judges may hold court in any municipality within the precinct but may exercise only the jurisdiction provided by law for county justice courts.

(b) County justice court judges may also, at the direction of the county legislative body, hold court anywhere in the county as needed but may only hear cases arising within the precinct.

(2) A municipal justice court judge shall hold court in the municipality where the court is located and, as directed by the municipal governing body, at the county jail or municipal prison.

Section 36. Section **78A-6-213**, which is renumbered from Section 78-5-108 is renumbered and amended to read:

[78-5-108]. 78A-6-213. Trial facilities -- Hours of business.

(1) A justice court judge shall conduct all official court business in a courtroom or office located in a public facility which is conducive and appropriate to the administration of justice.

(2) Each county, city, or town shall provide adequate courtroom and auxiliary space for

the justice court. The facility need not be specifically constructed for or allocated solely for the justice court if existing facilities adequately serve the purposes of the justice court.

(3) County and municipal justice courts shall be open and judicial business shall be transacted:

(a) five days per week; or

(b) no less than four days per week for at least 11 hours per day.

(4) The legislative body of the county, city, or town shall establish operating hours for the justice courts within the requirements of Subsection (3) and the code of judicial administration.

(5) The hours the courts are open shall be posted conspicuously at the courts and in local public buildings.

(6) The clerk of the court and judges of county and municipal courts shall attend the court at regularly scheduled times.

Section 37. Section **78A-6-214**, which is renumbered from Section 78-5-109 is renumbered and amended to read:

~~[78-5-109]. 78A-6-214. Laws, ordinances, and reference materials provided by counties, cities, and towns.~~

Each county, city, or town shall provide and keep current for each justice court in its jurisdiction a copy of the motor vehicle laws of Utah, appropriate copies of the Utah code, the justice court manual published by the state court administrator, state laws affecting local government, the county, city, or town ordinances, and other legal reference materials as determined to be necessary by the judge.

Section 38. Section **78A-6-215**, which is renumbered from Section 78-5-130 is renumbered and amended to read:

~~[78-5-130]. 78A-6-215. Monthly reports to court administrator and governing body.~~

(1) Every justice court judge shall file monthly with the state court administrator a report of the judicial business of the judge. The report shall be on forms supplied by the state court administrator.

(2) The report shall state the number of criminal and small claims actions filed, the dispositions entered, and other information as specified in the forms.

(3) A copy of the report shall be furnished by the justice court judge to the governing body in the municipality or county, or to the person or office in the county, city, or town designated by the governing body.

Section 39. Section **78A-6-301**, which is renumbered from Section 78-5-116.7 is renumbered and amended to read:

~~[78-5-116.7].~~ **78A-6-301. Justice Court Technology, Security, and Training Account established -- Funding -- Uses.**

There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.

(1) The state treasurer shall deposit in the account monies collected from the surcharge established in Subsection 78-5-116.5(3)(b)(iii).

(2) Monies shall be appropriated from the account to the Administrative Office of the Courts to only be used for technology, security, and training needs in justice courts throughout the state.